

S U S A N

C O M B S

TEXAS COMPTROLLER *of* PUBLIC ACCOUNTS

WWW.WINDOW.STATE.TX.US



Aug. 12, 2013

Name
Address
City State Zip

Dear Manufacturers and Distributors;

New Fee on Cigarette and Tobacco Products

House Bill 3536 (Effective Sept. 1, 2013) creates Subchapter V in Chapter 161 of the Health and Safety Code to impose a new fee on cigarettes and cigarette tobacco products manufactured by companies that did not originally participate in the Master Settlement Agreement. This includes a non-settling manufacturer (NSM) or subsequent participating manufacturer (SPM).

For the remainder of the 2013 calendar year, cigarette and tobacco distributors are required to collect a fee of 2.75 cents per cigarette stick or 0.09 ounces of cigarette tobacco products manufactured by an NSM. For cigarette and tobacco products of SPMs, distributors will collect a lower fee of 0.75 cents per cigarette stick or 0.09 ounces of cigarette tobacco products for the rest of calendar 2013, up until the calendar month beginning on or after the effective date of the SPM's credit amendment as defined in HB 3536, at which point the fee is the same as a NSM. For each subsequent year, the Comptroller will set new fee rates by increasing the previous year's rate by the greater of 3 percent or the rate of inflation calculated by the Consumer Price Index for All Urban Consumers (CPI-U).

Distributors that report and remit this new fee are allowed an additional 0.5 percent cigarette stamping allowance for a total of 3 percent of all cigarette stamps purchased. The additional stamping allowance will be calculated as a credit on the **Texas Distributor Monthly Report of Cigarettes and Stamps** (Form 69-100) based on the value of stamps affixed to cigarette packages during the reporting period. The standard 2.5 percent allowance will be calculated when the stamps are purchased.

The first report where the new fee will be reported is due on Oct. 31, 2013, for the September reporting period. Distributors will report and remit the collected NSM and SPM fees to the Comptroller using the following monthly distributor reports, which will be expanded to address this new fee: the **Texas Distributor Monthly Report of Cigarettes and Stamps**, (Form 69-100), the **Texas Distributor Monthly Report of Cigar and/or Tobacco Products** (Form 69-133), and the **Texas Distributor Monthly Report of Tobacco Products – Class W Worksheet** (Form 69-134).

The monthly distributor report(s) will now include and require:

- the following information, itemized for each place of business and by manufacturer and brand family:
 - the number and denominations of stamps affixed to individual packages of NSM and SPM cigarettes during the preceding month;

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- the amount of NSM and SPM cigarette tobacco products subject to the tax imposed by Section 155.0211, Tax Code, during the preceding month; and
- the number of individual packages of NSM and SPM cigarettes and the amount of NSM and SPM cigarette tobacco products not subject to the tax imposed by Chapter 154, Tax Code, or Section 155.0211, Tax Code, sold or purchased in this state or otherwise distributed in this state for sale in the United States;
- any other information the comptroller considers necessary or appropriate to determine the amount of the fee imposed by this subchapter or to enforce this subchapter;
- a calculation of the monthly fee required to be paid by the distributor;
- payment of the fee due; and
- payment of the tobacco products tax.

Information obtained from these distributor reports, regarding cigarettes or cigarette tobacco products sold, purchased, or otherwise distributed by an NSM or SPM, may be disclosed by the comptroller to the manufacturer or to the authorized representative of the manufacturer.

The comptroller shall, for the purpose of assisting distributors in calculating the monthly fee, publish and maintain on the comptroller's Internet website:

- a list of the names and brand families of settling manufacturers;
- a list of each NSM showing whether that manufacturer is or is not a subsequent participating manufacturer;
- the effective date of any credit amendment;
- the amount of NSM and SPM cigarette and/or tobacco products subject to the tax imposed by Section 155.0211, Tax Code, during the preceding month; and
- the number of individual packages of NSM and SPM cigarettes and the amount of NSM and SPM cigarette tobacco products not subject to the tax imposed by Chapter 154, Tax Code, or Section 155.0211, Tax Code, sold or purchased in this state or otherwise distributed in this state for sale in the United States.

Receive tax help via email at tax.help@cpa.state.tx.us

Sincerely,

A handwritten signature in black ink, appearing to read "Bryant Lomax", with a stylized, cursive script.

Bryant Lomax
Manager
Tax Policy